

Ace Envelope Manufacturing Corp. and Exclusive Envelope Corp. and Local 819 International Brotherhood of Teamsters, AFL-CIO. Cases 29-CA-15171, 29-CA-15748, and 29-CA-16656

March 31, 1994

DECISION AND ORDER

BY MEMBERS STEPHENS, DEVANEY, AND
BROWNING

On March 4, 1993, the National Labor Relations Board issued an Order, *inter alia*, adopting the findings and conclusions in the administrative law judge's decision of January 21, 1993, and ordering Ace Envelope Manufacturing Corp. and Exclusive Envelope Corp., its officers, agents, successors, and assigns, to offer immediate and full reinstatement to Noemi Hincapie, Joseph Pierre, and Flavie Joseph, and make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them in violation of the National Labor Relations Act. On June 15, 1993, the United States Court of Appeals for the Second Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on July 29, 1993, the Regional Director for Region 29 issued a backpay specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated November 23, 1993, the Regional attorney advised the Respondent that no answer to the backpay specification had been received and that unless an appropriate answer was filed by the close of business on December 6, 1993, summary judgment would be sought. The Respondent filed no answer.

On February 14, 1994, the Acting General Counsel filed with the Board a "Motion for Summary Judgment Where Respondent Has Failed to File an Answer," with exhibits attached. On February 16, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer

within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the backpay specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the backpay specification to be admitted as true, and grant the Acting General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the backpay specification and we will order payment by the Respondent of the amounts to the discriminatees, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Ace Envelope Manufacturing Corp. and Exclusive Envelope Corp., Maspeth, New York, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest accrued to the date of payment and minus tax withholdings required by Federal and state laws:

Noemi Hincapie	\$27,564.80
Joseph Pierre	13,628.12
Flavie Joseph	12,819.68

Dated, Washington, D.C. March 31, 1994

James M. Stephens,	Member
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Dennis M. Devaney,	Member
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Margaret A. Browning,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD